

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ROBERTO DURAND,

4 Plaintiff

Case No. 3:21-cv-00249-MMD-WGC

ORDER

5 v.

6 RENEE BAKER,

7 Defendant
8

9 **I. DISCUSSION**

10 On June 1, 2021, Plaintiff, an inmate in the custody of the Nevada Department of
11 Corrections ("NDOC"), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF
12 No. 1-1). Plaintiff has neither paid the full \$402 filing fee for this matter nor filed an
13 application to proceed *in forma pauperis*.

14 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
15 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
16 action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the
17 inmate must submit all three of the following documents to the Court:

18 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
19 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
20 page 3),

21 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
22 official (i.e. page 4 of this Court's approved form), and

23 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
24 **previous six-month period.**

25 The Court will grant Plaintiff a **one-time** opportunity to file a fully complete
26 application to proceed *in forma pauperis* containing all three of the required documents,
27 or in the alternative, pay the full \$402 filing fee for this action on or before **August 2, 2021**.
28 Absent unusual circumstances, the Court will not grant any further extensions of time.

1 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
2 with all three required documents or pay the full \$402 filing fee on or before **August 2,**
3 **2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case
4 with the Court when Plaintiff is either able to acquire all three of the documents needed
5 to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing
6 fee.

7 A dismissal without prejudice means Plaintiff does not give up the right to refile the
8 case with the Court, under a new case number, when Plaintiff has all three documents
9 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff
10 may choose not to file an application to proceed *in forma pauperis* and instead pay the
11 full filing fee of \$402 on or before **August 2, 2021** to proceed with this case.

12 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
13 will not file the complaint unless and until Plaintiff timely files a fully complete application
14 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

15 **II. CONCLUSION**

16 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send
17 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well
18 as the document entitled information and instructions for filing an *in forma pauperis*
19 application.

20 IT IS FURTHER ORDERED that on or before **August 2, 2021**, Plaintiff will either
21 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
22 administrative fee) or file with the Court:

23 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
24 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
25 signatures on page 3),

26 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
27 official (i.e. page 4 of this Court's approved form), and

28 (3) a copy of the **inmate's prison or jail trust fund account statement for the**

previous six-month period.

IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action on or before **August 2, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint (ECF No.1-1) but will not file it at this time.

DATED: June 2, 2021

Walter G. Cobb

UNITED STATES MAGISTRATE JUDGE